IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.438 of 2006

P.Sathya ... Petitioner

Vs.

1. The District Magistrate and
   District Collector
   Nagapattinam District,
   Nagapattinam.

2. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenu namely PATHINETTAMPADIYAN, son of Azagu Thevar before this Hon'ble Court, who is detained as per the order of detention passed by the first respondent in C.O.C.No.9/06 dated 1.4.06 and confined at Central Prison, Trichy and to set the detenu at liberty and further direction to call for the records relating to the above said order and quash the same.

For Petitioner : Mr.O.S.Thilak
For Respondents : Mr.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

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(Order of the Court was made by P.Sathasivam, J.)

The petitioner, who is the wife of the detenu by name PATHINETTAMPADIYAN, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 1.4.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated Nil.3.2006 was received by the Government on 21.4.2006 and remarks were called for on 24.4.2006. Thereafter, the remarks were received by the Government on 27.4.2006 and the File was submitted on 22.5.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day i.e. on 22.5.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.5.2006. The rejection letter was prepared on 23.5.2006 and the same was sent to the detenu on 24.5.2006 and served to him on 25.5.2006. As rightly pointed out by the learned counsel for the petitioner, though the remarks were received by the Government on 27.4.2006, the file was submitted only on 22.5.2006, there is no explanation at all for taking time for submitting the file till 22.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for submitting the file is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ajr

To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.

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2. The District Magistrate and
   District Collector
   Nagapattinam district,
   Nagapattinam.

3. The Superintendent,
   Central Prison, Trichy-20.
   (In duplicate for communication to detenu)

4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

HCP. No.438 of 2006

MR (CO)
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